

REMARKS

Claims 1-4 are pending in the present application. No new matter has been added.

Claims 1-4 have been rejected under 35 U.S.C. § 102(e) as assertedly being anticipated by U.S. Patent Application Publication No. 2003/0102562 A1 to Tomita (hereinafter "Tomita"). Applicants respectfully traverse these rejections.

Regarding claim 1, the Office Action asserts that paragraph 71 of Tomita discloses Applicants' invention as recited in claim 1. For reference, paragraph 71 of Tomita is duplicated below.

[0071] In Embodiment 1, the large dummy patterns 11*b* are regularly arranged from the region apart from the actual pattern 9 so as to bed thereon, and the small dummy patterns 11*a* are regularly arranged so as to be inserted in the region of the gap around the actual pattern 9 where the large dummy patterns 11*b* can not be arranged. Accordingly, the width of the trench-type isolating oxide film 13 does not exceed the predetermined width. Therefore, it is possible to suppress an increment of the abrading rate when the isolating oxide film 13*a* is abraded by the CMP method, whereby a sink of the film in the thickness direction by dishing can be prevented.

(Emphasis added.)

As can be seen from the sections emphasized above, Tomita simply discloses placing dummy patterns in regular intervals, wherein small dummy patterns are used "where the large dummy patterns 11*b* can not be arranged."

In contrast, the dummy structures of Applicants' claim 1 are "a function of the determined density and determined location" of at least one functional area. In other words, the density and location of the active areas are used as factors to add dummy structures. Tomita does not disclose this feature, but rather simply discloses filling vacant spaces with either a large or small dummy structure *regardless of the density and location of the active areas*.

For example, consider a region having a high density of active areas adjacent to a vacant space large enough to accommodate a large dummy structure. According to Tomita, a large dummy structure would be fabricated in the vacant space. This is not necessarily the case with the method of Applicants' claim 1, wherein adding the dummy structures are "a function of the

determined density and determined location" of the functional areas. Thus, because Tomita fails to disclose at least one limitation of Applicants' claim 1, claim 1 is deemed to be in condition for allowance.

Claims 2-3 depend from and further limit independent claim 1 in a patentable sense and, therefore, are also deemed to be in condition for allowance. Claim 4 recites a limitation similar to that discussed above with reference to claim 1, and therefore, is deemed to be in condition for allowance for similar reasons. Accordingly, it is respectfully requested that the rejection of claims 1-4 under 35 U.S.C. § 102(e) as being unpatentable be reconsidered and withdrawn.

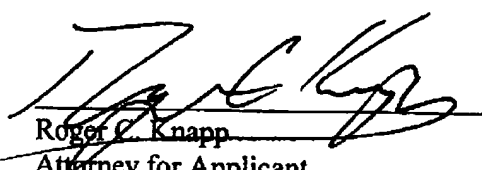
In view of the above, Applicants respectfully submit that the application is in condition for allowance and requests that the Examiner pass the case to issuance. If the Examiner should have any questions, Applicants request that the Examiner please contact Applicants' attorney at the address below. In the event that the enclosed petition for extension of time fees are insufficient, please charge any additional fees required to keep this application pending, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

January 27, 2005

Date

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